



Connecticut State Dental Association

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**Legislative Testimony
Human Services Committee
HB 5500 AAC Provider Audits Under The Medicaid Program
Thursday, March 13, 2014
Jeffrey Berkley, DDS**

Senator Slossberg, Representative Abercrombie and members of the Human Services Committee, my name is Jeffrey Berkley. I am an Oral and Maxillofacial surgeon who participates with the Medicaid Program. My group practice consists of eight surgeons that practice in five offices throughout Connecticut. I am an attending in the Department of dentistry at Yale, teaching in their residency program. I am head of the Dental Department at Midstate Medical Center. I am also President-Elect of the Connecticut State Dental Association and have received many calls from members regarding the audits. I am writing to testify in support of House Bill 5500 An Act Concerning Provider Audits Under The Medicaid Program.

I happened to be involved in one of the earliest audits and can not say definitively that the process has not improved since then. What I can do is relate my personal experiences and infer not that much has improved as many of the complaints I currently hear are similar to my experience. The auditor was pleasant, but was not a dentist and had minimal knowledge of the definitions, standards of care, or protocols involved in my specialty. I did make efforts to educate them in this regard, which hopefully helped in later audits, but find it highly inappropriate that we should need to educate those auditing us. It appears that the majority of findings involve disputes over coding intricacies, appropriate but uncovered clinical treatments, and standards being enforced by the DSS that do not correspond to ADA or current dental standards. Standards that are more common in medicine (an example of which would be requiring written documentation for the reason a radiograph was taken), are not the standard in dentistry. The law which allows extrapolation to audit violations does not require extrapolation for all findings. It was intended to fight fraud. The instances I cited above certainly do not qualify as fraud. Yet the auditors are extrapolating all negative findings to the entire universe of patients within the audit period, triggering repayment demands that are extreme for even minor issues. This extrapolation extends to different providers within the same group practice. From my experience and those of many who called, it is highly unlikely that current audits are random, as is required for the concept of extrapolation. It is this inappropriate extrapolation that creates the most concern.

At the urging of leadership of the CSDA, our state has risen from the bottom to be a model for providing access to care for the citizens of Connecticut. There are certainly instances of fraud and these should be pursued and punished. The CSDA has offered to help in educating the auditors, who we feel should be dentists. We have met with Commissioner Bremby and suggested formulating a reasonable set of standards together, assisting in educating dentists to those standards, and suggested the Dental Commission be more actively empowered to discipline flagrant violators. To date these have not been

implemented. With the amount of negative feedback being created by the audit process and extrapolation I fear that we will potentially be faced with the loss of many of our very best providers. These highly proficient and honest dentists who have now welcomed Husky patients into their practices are being dissuaded from continuing to do so.

HB5500 as written solves most of the issues that are causing providers to consider leaving the program while still allowing auditors to identify outliers committing fraud. To those, we should not only recoup payments but refer them for disciplinary action to the Dental Commission. There are areas of improvement that I would like to suggest. I feel that a licensed dentist, and where appropriate a licensed dental specialist, should be used in all phases of the audit. They should enforce standards that follow the American Dental Association guidelines for coding and protocols. Any variations from the above that are required (and I am not sure why that would occur), should be specifically noted and published to all providers before holding them liable. The appeals process in the audit should involve dentists who are not the paid auditors, perhaps the Dental Commission. I would also suggest that audit penalties already closed be modified to reflect the provisions of this law that restricts the inappropriate extrapolation. I thank you for your time and urge you to support this valuable and urgently needed bill.

Respectfully Submitted,

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